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| In the Matter of |) | |
| |) | |
| Richard Jackowitz |) | File No.: EB-TCD-12-00000034 |
| IT Connect, Inc. |) | |
| |) | NAL/Acct. No.: 201232170007 |
| |) | |
| |) | FRNs: 0021888045 |
| |) | 0021888037 |

⁵ *Toll Free Second Report and Order*, 12 FCC Rcd at 11164–65, para. 2.

3. On November 20, 2007, the Enforcement Bureau (Bureau) issued a citation to Mr. Jackowitz and IT Connect for violations of the Commission's toll free numbering rules.⁷ Specifically, the Bureau cited Mr. Jackowitz and IT Connect for warehousing, hoarding, and brokering toll free numbers.⁸ The citation put Mr. Jackowitz and IT Connect on notice that if Mr. Jackowitz or the company subsequently "violate[d] the Communications Act or the Commission's rules in any manner described [in the citation], the Commission [could] impose monetary forfeitures."⁹

4. Following the issuance of the citation, the Bureau received a complaint and additional evidence from Bristol-Myers Squibb Company (BMS) alleging that Mr. Jackowitz and IT Connect violated the Commission's toll free numbering rules, yet again, by offering to sell BMS various vanity toll free numbers containing "trademarks owned by BMS or its partners."¹⁰ Based on an investigation into the BMS complaint, on July 6, 2012, the Commission issued the *Notice of Apparent Liability for Forfeiture (NAL)* to Mr. Jackowitz and IT Connect proposing a forfeiture of \$240,000, for which Mr. Jackowitz and IT Connect would be jointly and severally liable.¹¹ The *NAL* ordered Mr. Jackowitz and/or IT Connect to pay the full amount of the proposed forfeiture within thirty (30) days or submit a written statement seeking reduction or cancellation of the proposed forfeiture.¹²

5. Mr. Jackowitz and IT Connect made multiple requests for extensions of time to respond to the *NAL*.¹³ The Bureau granted several of those requests—ultimately requiring that any written

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⁶ 47 C.F.R. § 52.107(a); see *Toll Free Second Report and Order*, 12 FCC Rcd at 11189, para. 38.

⁷ *Richard Jackowitz*, Citation, 22 FCC Rcd 19998 (Enf. Bur. 2007) (*Jackowitz Citation*). The citation was issued to Mr. Jackowitz both as chief executive officer of IT Connect and in his personal capacity. See *id.* at 19998 ("[F]uture violations of the Act or [the] Commission's rules [with respect to toll free numbering] may subject *you and your company* to monetary forfeitures." (emphasis added)).

⁸ See *id.* at 19999 ("It has come to [the Commission's] attention that your company, acting under your direction, reserved toll free numbers, either directly or indirectly through an affiliate, from the Service Management System database without having an actual toll free subscriber for whom those numbers were being reserved. In addition, your company, acting under your direction, engaged in the selling of toll free numbers for a fee."); see also *id.* at 19998–99 (defining warehousing, hoarding, and brokering).

⁹ *Id.* at 19999.

¹⁰ See Informal Complaint No. 11-C00318946 (filed July 22, 2011) (stating, in part, that "Mr. Jackowitz offered [toll free numbers] to BMS"); see also Declaration of Lisa Osby, Telecommunications Manager, Bristol-Myers Squibb Company (May 31, 2012) ("I understood from the e-mail's signature block that Mr. Jackowitz was the president of IT Connect, Inc. and that he was writing me in that capacity."). A "vanity" toll free number "is a telephone number for which the letters associated with the number's digits on a telephone handset spell a name or word of value to the number holder." *Toll Free Service Access Codes*, Fourth Report and Order and Memorandum Opinion and Order, 13 FCC Rcd 9058, 9059, para. 1 (1998).

¹¹ See *Jackowitz NAL*, 27 FCC Rcd at 7903-05, paras. 13–19.

¹² See *id.* at 7905-06, paras. 20–25.

¹³ See E-mail from Susan E. Colman, Counsel for Richard Jackowitz and IT Connect, Inc., to Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (August 8, 2012) (requesting "a 30-day extension to file [a] response to the [*Jackowitz NAL*]" in order to "review and analyze [] outstanding documents" sought by a FOIA request); E-mail from Susan E. Colman, Counsel for Richard Jackowitz and IT Connect, Inc., to Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (August 17, 2012) (requesting "a thirty (30) [day] extension of time to file the response to the [*Jackowitz NAL*]" due to "two very serious personal emergencies" that make it "impossible for Mr. Jackowitz to provide [counsel] with the assistance required [] to craft a proper response by the due date."); E-mail from Richard Jackowitz to Richard A. (continued....)

statement seeking reduction or cancellation of the proposed forfeiture or payment of the full amount of the proposed forfeiture be made on or before October 15, 2012.¹⁴ Despite the several extensions of time granted, Mr. Jackowitz and IT Connect did not respond to the *NAL* or pay the proposed forfeiture amount.

III. DISCUSSION

6. Section 503(b) of the Act authorizes the Commission to impose a forfeiture penalty against any entity that “willfully or repeatedly fail[s] to comply with any of the provisions of [the Communications Act] or of any rule, regulation, or order issued by the Commission.”¹⁵ As to certain violators—for example, individuals who are not themselves holders of or applicants for any form of Commission authorization and whose violations do not involve conduct for which such authorization is necessary—the Commission must issue a citation warning them of the violation charged before imposing forfeiture penalties.¹⁶ If the cited entity subsequently engages in the type of conduct described in the citation,¹⁷ the Commission may then issue notice of apparent liability for forfeiture, and the person against whom such notice has been issued must have an opportunity to show, in writing, why no such forfeiture penalty should be imposed.¹⁸ In determining the appropriate forfeiture penalty, Section 503(b)(2)(E) requires that the Commission “take into account the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.”¹⁹ The Commission may also consider deterrence as a factor in determining the appropriate forfeiture amount.²⁰ The maximum penalty authorized against a non-common carrier or other entity not specifically designated in Section 503 of the Act is “\$16,000 for

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Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (September 12, 2012) (informing the Bureau that Technology Law Group no longer serves as counsel for Mr. Jackowitz and IT Connect, and requesting a 30-day extension to retain new counsel for “[Mr. Jackowitz] and IT Connect”); E-mail from Richard Jackowitz to Shante D. Willis, Attorney-Advisor, Telecommunications Consumers Division, FCC Enforcement Bureau (September 25, 2012) (requesting “one last extension to [November] 15, [2012], in order to give prospective counsel “time to read all the files” associated with the investigation).

¹⁴ See E-mail from Sarah E. Citrin, Assistant Division Chief, Telecommunications Consumers Division, FCC Enforcement Bureau to Richard Jackowitz (September 13, 2012) (where the Bureau granted a 30-day extension to October 15, 2012, in order for Mr. Jackowitz and IT Connect to obtain new counsel).

¹⁵ 47 U.S.C. § 503(b)(1)(B).

¹⁶ See *id.* § 503(b)(5).

¹⁷ *Id.*

¹⁸ See *id.* § 503(b)(4) (providing, in relevant part, that “no forfeiture penalty shall be imposed under [Section 503] against any person unless and until [] (A) the Commission issues a notice of apparent liability, in writing, with respect to such person; (B) such notice has been received by such person, or until the Commission has sent such notice to the last known address of such person, by registered or certified mail; and (C) such person is granted an opportunity to show, in writing, within such reasonable period of time as the Commission prescribes by rule or regulation, why no such forfeiture penalty should be imposed.”); see also 47 U.S.C. § 503(b)(3)(A) (providing that “[a]t the discretion of the Commission, a forfeiture penalty may be determined against a person [] after notice and an opportunity for a hearing before the Commission or an administrative law judge . . .”).

¹⁹ 47 U.S.C. § 503(b)(2)(E).

²⁰ See, e.g., *Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17098, para. 20 (1997) (recognizing the relevance of creating the appropriate deterrent effect in choosing the amount of a forfeiture).

each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of \$112,500 for any single act or failure to act.”²¹

7. Based on the record here, we determined that a substantial forfeiture penalty is warranted for several reasons,²² including to deter Mr. Jackowitz, IT Connect, and others from violating the Commission’s toll free numbering rules in the future.²³ Accordingly, we proposed a total forfeiture of \$240,000, representing the assessment of the maximum forfeiture penalty of \$16,000 for each of the 15 toll free numbers that Mr. Jackowitz and IT Connect offered to sell BMS on July 7, July 10, and July 18, 2011.²⁴ We proposed to hold Mr. Jackowitz and IT Connect jointly and severally liable for the forfeiture amount.²⁵

8. Despite having been granted several extensions of time to respond to the *NAL*, Mr. Jackowitz and IT Connect did not submit a written response seeking cancellation or reduction of the proposed forfeiture, or pay the proposed forfeiture amounts. Accordingly, Mr. Jackowitz and IT Connect have failed to identify any facts or circumstances to persuade us that there is a basis for cancelling or reducing the proposed forfeiture, and we are not aware of any mitigating circumstances that would warrant a cancellation or reduction of the forfeiture penalty.

9. For these reasons, and based on the information before us, we hereby impose a total forfeiture of \$240,000, for which Mr. Jackowitz and IT Connect are jointly and severally liable, for willful or repeated violations of the Commission’s toll free numbering rules, as set forth in the *NAL*.

IV. ORDERING CLAUSES

10. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 503(b), and Section 1.80 of the Commission’s rules, 47 C.F.R. § 1.80, that Richard Jackowitz and IT Connect, Inc. are **JOINTLY AND SEVERALLY LIABLE FOR A MONETARY FORFEITURE** in the amount of two hundred forty thousand dollars (\$240,000) for willful or repeated violations of Section 52.107 of the Commission’s rules regarding the hoarding and brokering of toll free numbers.

²¹ 47 C.F.R. §1.80(b)(7); *see* 47 U.S.C. § 503(b)(2)(D). Section 503(b)(2)(D) applies to non-common carriers or other entities not specifically designated in Section 503, and provides for forfeitures of up to \$10,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of \$75,000 for any single act or failure to act. *Id.* In accordance with the inflation adjustment requirements contained in the Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, Sec. 31001, 110 Stat. 1321, the Commission increased the maximum statutory forfeiture under Section 503(b)(2)(D) to \$16,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of \$112,500 for any single act or failure to act. *See* 47 C.F.R. §1.80(b)(7); *see also Amendment of Section 1.80(b) of the Commission’s Rules, Adjustment of Forfeiture Maxima to Reflect Inflation*, Order, 23 FCC Rcd. 9845 (2008) (amending Section 1.80(b) to reflect inflationary adjustments for certain statutory maximum penalties).

²² *See Jackowitz NAL*, 27 FCC Rcd at 7904, para. 16.

²³ *See id.* at paras. 16–17.

²⁴ As fully detailed in the *Jackowitz NAL*, Mr. Jackowitz offered to sell BMS the same 15 toll free numbers on repeated occasions between June 6, 2011, and July 18, 2011. *See id.* at 7898, para. 6 & nn.30, 53. This Order assesses a forfeiture based only on the July 2011 offers. *See id.* at 7905, para. 17 & nn.21, 30, 53, 72.

²⁵ *See id.* 7905, para. 20.

11. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Commission's rules within thirty (30) calendar days after the release date of this Order.²⁶ If the forfeiture is not paid within the period specified, the case may be referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to Section 504(a) of the Act.²⁷ Richard Jackowitz and/or IT Connect, Inc. shall send electronic notification of payment to Johnny Drake at Johnny.Drake@fcc.gov on the date said payment is made.

12. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account number and FRN referenced in the caption of this Order. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.²⁸ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions you should follow based on the form of payment you select:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

13. Any request for full payment under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, SW, Room 1-A625, Washington, DC 20554.²⁹ If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

²⁶ 47 C.F.R. § 1.80.

²⁷ 47 U.S.C. § 504(a).

²⁸ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

²⁹ See 47 C.F.R. § 1.1914.

14. **IT IS FURTHER ORDERED** that copies of this Order shall be sent by Certified Mail Return Receipt Requested and First Class Mail to IT Connect, Inc., 314 Route 94, Suite 2, South Warwick, NY 10990, and to Richard Jackowitz, 10 Knollcroft Terrace, Warwick, NY 10990-2929.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary